

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

**ROSELYN THEODORE,**

**Plaintiff,**

**v.**

**HESS CORPORATION;  
HESS OIL NEW YORK CORP.,  
*as successor by merger of*  
HESS OIL VIRGIN ISLANDS CORP.;  
GLENCORE LTD.;  
LOCKHEED MARTIN CORP.; and  
COSMOGONY II, INC.**

**Defendants,**

**HESS CORPORATION and  
HESS OIL NEW YORK CORP.,**

**Cross-Claimants/  
Cross-Defendants,**

**v.**

**GLENCORE LTD. and  
LOCKHEED MARTIN CORP.,**

**Cross-Defendants/  
Cross-Claimants.**

**Civil Action No. 2021-0178**

**PLAINTIFF'S NOTICE OF WITHDRAWAL OF HER ANSWERS OF SEPT. 6, 2022  
TO QUESTIONS #3 AND #4 TO THE SHOW CAUSE ORDER OF JULY 30, 2022**

Plaintiff Roselyn Theodore's *Notice of Withdrawal per answers to questions #3 and #4* is regarding this Court's Order to Show Cause, Doc.64, dated July 30, 2022 (the "Order"), and Plaintiff's Memorandum in Response to the Court's Show Cause Order, Doc.68, dated September 6, 2022 (the "Memorandum").

Plaintiff files this Notice as Hess/HOVIC/HONX (“HHH”) has filed a motion in the Bankruptcy Court stating that Plaintiff has allegedly violated the automatic stay by responding to this Honorable Court’s Order.

In this Honorable Court’s Order, this Court directed each party to file a memorandum with supporting authorities addressing four issues. The last two issues (numbered 3 and 4) concerned whether the automatic stay pertained to each of the non-Debtor defendants in the case, including Hess Corporation. The Court noted authorities in the Third Circuit which hold that Remand does not effect the Automatic Stay, and also asked the Parties why these authorities would not be persuasive or binding on the District Court (in questions #1 and #2 in the Order).

On August 8, 2022, attorneys for Hess/HOVIC/HONX from the Beckstedt & Kuczynski Law Firm emailed Plaintiff’s local counsel requesting that the parties agree to a proposed Joint Stipulated Extension of Time to respond to the Order. A draft stipulation was then circulated to all parties (which included the Plaintiff, Lockheed Martin, and Glencore) by HHH’s counsel.

After review and approval by all Parties, on August 12, 2022, Beckstedt & Kuczynski filed the Stipulation for an extension of time to September 16 to respond to this Court’s Order. (See Stipulation as Doc.66). **Nowhere in this Stipulation did it state that Hess/HOVIC/HONX believed that merely answering an Order from this Honorable Court would allegedly violate the automatic stay, and no drafts of the Stipulation that were circulated to the Parties ever contained any such language.**

On August 26, 2022, this Honorable Court issued an Order approving the extension of time until September 16, 2022. Further, this Honorable Court summarized the facts/issues raised by HHH in its Stipulation regarding the extension of time. Of course, none of the reasons the Court itemized included the belief that HHH wanted an extension because it believed any answer to the Court’s order would be violative of the Stay.

On September 6, 2022, Plaintiff duly responded to this Honorable Court's Order as to all four issues requested. On September 13, 2022, Lockheed Martin responded to the Order, and today, on September 16, 2022, Glencore and HHH responded to the Show Cause Order.

Concurrent to HHH's response to the Show Cause – a full 10 days after Plaintiff's response was filed on September 6, 2022 – HHH's bankruptcy law firm of Kirkland & Ellis, contacted lead-counsel to the Official Committee of Unsecured Creditors in Honx's chapter 11 case (Akin Gump Strauss Hauer & Feld, LLP) claiming that, by responding to the Order, Plaintiff purportedly violated (1) the Bankruptcy Court's order regarding the extension of the automatic stay to Hess Corp., and (2) my co-counsel's "agreement" to come before the Houston Bankruptcy Court Judge Isgur regarding any future issues regarding the extent of the automatic stay. Akin Gump relayed this threat-of-an-automatic-stay-violation message to me, and that HHH may be filing pleadings to this effect in the Bankruptcy Court (which they ultimately did this evening).

One important additional fact is worth mentioning. In the HONX bankruptcy case, all Parties had a massive two day global mediation in New York with two high-profile mediators on September 1 and 2. Just yesterday, on September 15, as set forth in a notice placed on the Bankruptcy Court's docket, the mediation was terminated due to impasse.

From the facts and events above, I sadly find this a case of classic sandbagging. HHH filed a Joint Stipulation extending the time to respond to the Order, but the Stipulation expressed no problems with answering this Honorable Court's Order. The Court approved the Stipulation. Plaintiff filed her Show Cause response on September 6, 2022. However, only after the mediation terminated yesterday on September 15 – and HHH are finally facing the deadline of September 16 – **an extended date they requested** – a full ten days after Plaintiff filed her Show Cause response, does HHH now say Plaintiff committed a purported violation. Moreover, I do not see that HHH contacted Glencore or Lockheed to also advise them of their purported violations in responding to this Honorable Court's order; so perhaps this is HHH's strategic sandbagging to the plaintiff only.

Nevertheless, in an abundance of caution, please accept this *Notice of Withdrawal* as Plaintiff's request that our answers to questions 3 and 4 of the Order be deemed withdrawn, as well as any request for relief we made regarding questions 3 and 4 in our Memorandum.

While we don't believe anything we stated in our Memorandum is incorrect, we simply would like to withdraw any action which might run afoul of the Bankruptcy Court (or any "agreements" made as to how the automatic stay should be addressed). Akin Gump has notified HHH bankruptcy counsel Kirkland & Ellis that I would file this *Notice of Withdrawal* with the Court this evening, and HHH's bankruptcy counsel cited to this in their pleadings filed with the Bankruptcy Court earlier this evening.

In conclusion, this Honorable Court does not need the Plaintiff's two-cents. This Honorable Court is clearly aware of the law in the Third Circuit and the powers it possesses.

Dated: September 16, 2022

Respectfully submitted,

/s/ J. Russell B. Pate, Esq.

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**CERTIFICATE OF SERVICE**

It is hereby certified that on this the 16<sup>th</sup> day of September 2022, a true and exact copy of the foregoing document was served via ECF e-filing to:

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